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ABSTRACT

Designed to inform key members of La Raza about practical implications of the Immigration Reform and Control Act of 1986, this bulletin outlines immediate action that should be taken to educate the Hispanic community and employers about the legislation. Brief summaries are provided for four critical provisions of the legislation: (1) a legalization program that permits certain individuals to become permanent resident aliens; (2) farmworker provisions; (3) a requirement that non-citizen applicants for federal benefit programs be screened to insure legal entitlement; and (4) employer sanctions that make it illegal for employers to knowingly hire undocumented persons. The following section sets out actions that should be taken and actions that should be avoided by employers as well as individual Hispanics. Employers are cautioned against firing any current employees regardless of their immigration status or discriminating against individuals on the basis of national origin. Undocumented immigrants are cautioned against going to the Immigration and Naturalization Service to apply for legalization or paying anyone who purports to be able to help with applications for legalization. A press release is attached containing the views of Raul Yzaguirre, president of the National Council of La Raza, on the new immigration legislation. (JHZ)

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ACTION NEEDED TO EDUCATE HISPANICS, EMPLOYERS ABOUT IMPLICATIONS OF NEW IMMIGRATION LEGISLATION

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October 20, 1986

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ADVOCACY AND LEGISLATION

ACTION ALERT

Contact: Charles Kamasaki, (202) 628-9600 **Date:** October 20, 1986

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ACTION NEEDED TO EDUCATE HISPANICS, EMPLOYERS
ABOUT IMPLICATIONS OF NEW IMMIGRATION LEGISLATION

OVERVIEW

On October 15, the U.S. House of Representatives passed sweeping immigration reform legislation; the bill was passed by the Senate on October 17. When signed by the President, it will lead to major changes in national immigration policy -- and to a great deal of confusion on the part of employers and the Hispanic community.

THIS ACTION ALERT IS DESIGNED TO INFORM KEY MEMBERS OF THE COUNCIL NETWORK ABOUT WHAT THE BILL MEANS IN PRACTICAL TERMS, AND WHAT IMMEDIATE ACTION SHOULD BE TAKEN TO EDUCATE OUR COMMUNITY AND EMPLOYERS AND TO PREPARE FOR THE BILL'S IMPLEMENTATION -- AND TO PREVENT INAPPROPRIATE AND POSSIBLY DANGEROUS REACTIONS BY EMPLOYERS OR MEMBERS OF OUR COMMUNITY.

BACKGROUND

The National Council of La Raza participated actively in the immigration reform debate, but did not support the bill, primarily because of the expected discriminatory effects of its employer sanctions provisions, the weakening of anti-discrimination protections, and the weakening of Schumer Amendment provisions permitting undocumented farmworkers to become citizens. We are also most disappointed that the provisions for suspension of deportation of Salvadoran and Nicaraguan refugees were deleted from the bill as reported by the conference committee. However, the Council was pleased to see a relatively generous legalization program, and we agree with Congressman Esteban Torres (D-CA), Chairman of the Congressional Hispanic Caucus -- who played a constructive and statesmanlike role in the debate -- that this is perhaps the best and least damaging legislation possible under current political conditions. (The statement of Council President Raul Yzaguirre about the bill is attached.)

The new legislation contains several critical provisions:

1. A LEGALIZATION PROGRAM which will permit certain individuals who have resided in the United States continuously since January 1, 1982, to become permanent resident aliens. There will be a six-month planning period BEFORE the 12-month legalization period begins.

2. FARMWORKER PROVISIONS which permit farmworkers who have worked in agricultural jobs for 90 days during each of the past three years to become permanent resident aliens. Those who have worked in agricultural jobs for 90 days during the past year can also become temporary resident aliens, and after three years can apply for permanent resident alien status. Temporary resident aliens will be eligible only for limited entitlements and human services. Under the farmworker provisions, not more than 350,000 farmworkers can be adjusted. Farmworkers who are not citizens will also become eligible for limited legal services, but only for cases related to wage and other employment issues.

3. Language which requires states and localities to adopt the SAVE (Systematic Alien Verification for Entitlements) PROGRAM, whereby non-citizen applicants for federal benefit programs will be screened to insure that they are legally entitled to such benefits. However, each federal agency may choose to waive implementation of SAVE, if the system is not likely to be cost-effective or if an alternative verification system is in place.

4. EMPLOYER SANCTIONS which make it illegal for employers to knowingly hire undocumented persons. Sanctions will be implemented after a six-month "education period"; and for the first 12 months AFTER the education period, first-time violators will be subject only to warning citations. Eighteen months after enactment, all violators will be liable for fines; employers who establish a "pattern or practice" of violations may be subject to criminal penalties. All employers will be required to request documentation for all "new hires," to verify their immigration status and eligibility for employment. A special process will be established to investigate complaints of employment discrimination against citizens and legal resident aliens.

A more detailed description of the legislation will be sent to the network once the bill has been signed into law.

ACTION NEEDED

All entities concerned about the civil rights of Hispanics should take IMMEDIATE action to inform their communities, directly and through local media, about the immediate and long-range implications of this legislation. Certain actions should be TAKEN, and other actions AVOIDED, by both employers and individual Hispanics. Appropriate action includes the following:

1. EMPLOYERS

   a. DO NOT FIRE ANY CURRENT EMPLOYEES, REGARDLESS OF THEIR IMMIGRATION STATUS. EMPLOYER SANCTIONS COVER ONLY NEW HIRES. In addition, there is a six-month education period before the employer sanctions go into effect, and AFTER the education period, most first-time violators will be subject only to warnings.

b. REMEMBER THAT YOU COULD BE SUBJECT TO EMPLOYMENT DISCRIMINATION CHARGES IF YOU REFUSE TO HIRE APPLICANTS OR FIRE CURRENT EMPLOYEES WHO ARE CITIZENS OR LEGAL RESIDENTS. The safest course for employers during the next six months, while waiting for regulations on how to implement the sanctions requirements, is to CONTINUE CURRENT HIRING PRACTICES, BEING SURE NOT TO DISCRIMINATE AGAINST INDIVIDUALS ON THE BASIS OF NATIONAL ORIGIN.

2. INDIVIDUAL HISPANICS OR OTHER INDIVIDUALS WHO ARE UNDOCUMENTED AND HAVE BEEN IN THIS COUNTRY SINCE BEFORE JANUARY 1, 1982

a. DON'T GO TO THE INS TO APPLY FOR LEGALIZATION. The legalization period does not begin until after a six-month planning period, and it is unlikely that INS will take applications for legalization directly. If you do go now and attempt to apply, you may be subject to deportation.

b. DON'T PAY MONEY TO ANYONE WHO PURPORTS TO BE ABLE TO HELP YOU APPLY FOR LEGALIZATION. No one can help you yet, because regulations governing legalization have not yet been developed. Community-based organizations will be responsible for counseling and otherwise helping applicants for legalization. Wait until the final regulations have been developed; consult with your local community organization to find out when this occurs.

c. IF YOU WANT ADVICE, CONSULT ONE OF THE MAJOR VOLUNTARY AGENCIES WITH A TRACK RECORD IN THE IMMIGRATION FIELD. Local agencies affiliated with the Catholic Church, Church World Service, or Lutheran Immigration and Refugee Service can keep you informed and tell you how and when to apply.

d. BEGIN TO COLLECT DOCUMENTATION THAT SHOWS THAT YOU HAVE BEEN A CONTINUOUS RESIDENT OF THE UNITED STATES SINCE BEFORE JANUARY 1, 1982. The most useful documentation includes rent receipts, utility payment receipts, W-2 or other employer and tax-related forms. If you cannot establish continuous residence in this way, contact a parish priest or someone else who may be able to sign an affidavit indicating that this person knows you to have been in this country continuously since before the cutoff date. Final decisions have not yet been made on what constitutes adequate documentation; the more the better.

3. HISPANIC OR OTHER NON-CITIZEN FARMWORKERS WHO HAVE WORKED AT LEAST 90 DAYS IN AGRICULTURE DURING THE PAST YEAR

a. DO NOT GO TO THE INS TO APPLY FOR TEMPORARY OR PERMANENT RESIDENT ALIEN STATUS. The final regulations for implementing this legislation have not yet been developed, and you could be subject to deportation.

b. DO NOT PAY ANYONE WHO PURPORTS TO BE ABLE TO HELP YOU APPLY FOR TEMPORARY OR PERMANENT RESIDENT ALIEN STATUS. Since the final regulations have not been determined, they cannot help you. And it is likely that nonprofit entities will be the groups responsible for taking applications from farmworkers once the program is implemented.

c. IF YOU WANT TO GET ADVICE, CONSULT WITH ONE OF THE MAJOR FARMWORKER ORGANIZATIONS. Groups like the Farm Labor Organizing Committee, United Farm Workers, and Arizona Farmworkers will keep you informed and tell you when and how to apply.

d. BEGIN TO COLLECT DOCUMENTATION SHOWING THAT YOU WORKED AT LEAST 90 DAYS DURING THE PAST YEAR, OR DURING THE PAST THREE YEARS, AS A FARMWORKER. What constitutes acceptable documentation has not yet been finally determined, but employer records or W-2 forms are likely to be needed.

4. ALL HISPANICS AND OTHER PERSONS WHO ARE CITIZENS OR LEGAL RESIDENT ALIENS BUT WHO MAY BE MISTAKEN FOR UNDOCUMENTED IMMIGRANTS

a. IF YOU FEEL YOU HAVE BEEN DISCRIMINATED AGAINST, EITHER BY BEING FIRED BY A CURRENT EMPLOYER OR BY NOT BEING CONSIDERED FOR EMPLOYMENT BY A POTENTIAL EMPLOYER, DOCUMENT YOUR CASE AND FILE A COMPLAINT. File it with your local or state human rights commission or other agency responsible for handling employment discrimination complaints, or with the federal Equal Employment Opportunity Commission. If you need advice, contact a legal services entity or public service law firm. It is illegal for an employer to discriminate against you because of your national origin, and you should immediately take action.

b. BEGIN TO COLLECT DOCUMENTS WHICH PROVE YOUR LEGAL STATUS, FOR USE WHEN YOU SEEK A JOB. Final regulations have not been developed concerning what constitutes proof of legal status, but a U.S. passport, certificate of U.S. citizenship, naturalization documents, Green Card or other proof of legal resident alien status, or birth certificate is likely to be required, and a Social Security card and driver's license with picture will help determine your eligibility for employment.

Getting this information out to the community IMMEDIATELY is essential to avoid employment discrimination and massive confusion. You probably know more about the bill than most members of your community. Call Hispanic and mainstream media -- such as radio talk show hosts or news staff -- and offer to appear on their programs or be interviewed about the immediate implications of the bill. The information needs to get out to the community and the public as quickly and as completely as possible.

NATIONAL COUNCIL OF
LA RAZA

Press Release

For Immediate Release
October 15, 1986

Contact: Raul Yzaguirre or
Charles Kamasaki,
(202) 628-9600

STATEMENT OF RAUL YZAGUIRRE, PRESIDENT OF
THE NATIONAL COUNCIL OF LA RAZA, ON NEW IMMIGRATION LEGISLATION

While the National Council of La Raza cannot endorse the immigration bill, we recognize that it is probably the best immigration legislation possible under current political conditions.

We view the new immigration legislation with mixed emotions. While it falls far short of what we had hoped for in terms of civil rights protections and protection for Salvadoran and Nicaraguan refugees, this legislation clearly represents an enormous improvement over the Senate version of the bill and over the 1984 Simpson-Mazzoli bill which died in conference committee.

Hispanics are at the same time potentially the greatest beneficiaries and the greatest victims of changes in immigration policy -- and the National Council has long been committed to supporting immigration reform. Unfortunately, public attitudes, often shaped by misleading and distorted media presentations of the immigration situation, have made achievement of fair, equitable, and humane legislation extremely difficult. In this atmosphere, even the modest improvements contained in this legislation represent significant accomplishments for those of us in the Hispanic community who have worked so hard for true immigration reform.

We are particularly pleased with the bill's legalization provisions, which are the fairest and most generous to date, and with the agricultural labor compromise, which for the first time provides full rights and protections for both foreign and domestic farmworkers. The Cuban-Haitian adjustment provisions are a long overdue response to the plight of the boat people from these countries. We are also pleased at the retention of the House provisions which will prevent wrongful denial of benefits which would otherwise have been caused by implementation of the SAVE (Systematic Alien Verification for Entitlements) Program. The National Council was actively involved in advocacy for these positive elements of the legislation, and we are proud and pleased by these accomplishments.

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National Office – Twenty F St. N.W., 2nd Floor, Washington, D.C. 20001, (202) 628-9600, Raúl Yzaguirre, President

This legislation, however, also has some very dangerous provisions. We believe the inclusion of employer sanctions will increase employment discrimination against Hispanic citizens and legal residents who fit immigrant stereotypes. We are extremely disappointed that the provision sponsored by Congressman Robert Garcia (D-NY), which would have "sunsetted" sanctions after five years, was deleted in conference. Given the growing body of evidence that sanctions will create discrimination against native born Americans, it is most unfortunate that the Congress did not see fit to assure that this issue will be reviewed again after a reasonable period. We are also very disappointed that the anti-discrimination provisions included in the House bill -- which passed on two occasions by overwhelming margins -- were watered down by the conferees. We remain convinced that employer sanctions are a bad idea which will perpetuate discrimination.

The deletion of provisions that would have temporarily suspended the deportation of Salvadoran and Nicaraguan refugees are a special problem at a time when civil war and random violence in Central America have been compounded by natural disasters.

One of the greatest deficiencies in the new legislation is its failure to address the international dimensions and implications of our immigration policies. This bill does nothing to improve the economic and political conditions in Latin America which contribute to illegal migration, and in fact may exacerbate such problems.

This entire process has been a very difficult one for the National Council and its network, but we believe that our involvement in the debate has benefited our community. We deeply appreciate the efforts of certain members of the House who played productive roles in the legislative process. We express our gratitude to Congressman Peter Rodino (D-NJ) for his commitment to a fair and generous legalization program, and to Howard Berman (D-CA) and Charles Schumer (D-NY) for their efforts in negotiating essential protections for farmworkers. And most of all, we applaud Congressman Esteban Torres (D-CA) for his statesmanlike and constructive leadership in achieving what many believe is the best immigration legislation that could have been achieved under current conditions.

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(The National Council of La Raza, one of the largest national Hispanic organizations, was established in 1968 and is headquartered in Washington, D.C. Serving as an advocate for all Hispanics, the Council has a national constituency of affiliated Hispanic community-based organizations.)